

Tuesday, April 27, 2010 (at 10:00 o'clock A.M.).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Gracious God, You are our ever-present source of inspiration, guidance and courage. Once again, at the opening of today's legislative session, we turn our attention to You and spiritual values and principles. Often we are busy with tasks to accomplish and places to go so that we sometimes overlook You and Your presence in our lives. As we address the items on today's calendar let our hearts and minds be filled with Your peace, light, hope and joy. In resolving the current needs of the people and the Commonwealth may we be mindful of the needs of future generations. Teach us to be aware of the debt of gratitude we owe to our predecessors who labored to make Massachusetts safe, prosperous, with a deep concern for children, families and the elderly.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Prayer.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Statement of Representative Bosley of North Adams.

A statement of Mr. Bosley of North Adams was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber for yesterday's session due to business in my district. Had I been present for the taking of the yeas and nays on the question on passing to be engrossed the municipal relief bill, I would have voted in the affirmative. My missing of roll calls yesterday was due entirely to the reason stated.

Statement of
Mr. Bosley of
North Adams.

Guests of the House.

During the session, Mr. Kujawski took the Chair for the purpose of introducing noted former professional athletes: Ted Johnson, former Patriot's linebacker and three time Superbowl champion; Bob Sweeney, former Boston Bruin; Jason Zent, former NHL player; Micky Ward, boxing legend; and Chris Nowinski, former WWE wrestler and co-director of the Center for the Study of Traumatic Encephalopathy. The distinguished former athletes were visiting the State House in support of concussion prevention in young student athletes. Mr. Nowinski then addressed the House briefly.

Former
professional
athletes
supporting
concussion
prevention.

Papers from the Senate.

A Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the city of Somerville to the Somerville housing authority (Senate, No. 2286, amended by inserting before the enacting clause the following emergency preamble:

Somerville,—
land transfer.

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the division of capital asset management and

UNCORRECTED PROOF

maintenance to convey a certain parcel of land in the city of Somerville for the creation of affordable housing for elderly residents, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”) [Local Approval Received], passed to be engrossed by the Senate was read; and it was referred, under Rule 33, to the committee on Ways and Means.

A Bill relative to recall in the town of Middlefield (Senate, No. 2391) (on Senate bill No. 2129) [Local Approval Received], passed to be engrossed by the Senate was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Middlefield,—
recall election.

Report of Committee.

By Ms. Walz of Boston, for the committee on Education, on House, No. 111, a Bill requiring the sterilization of musical instruments in schools (House, No. 4633). Referred, under Joint Rule 1E, to the committee on Health Care Financing.

Musical
instruments.

Recesses.

At twelve minutes after eleven o'clock A.M. (Tuesday, April 27), on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House recessed twenty minutes after past ten o'clock; and at that time the House was called to order with Mr. Donato in the Chair.

Recesses.

The House thereupon took a further recess, on further motion of Mr. Peterson, until the hour of eleven o'clock; and at that time the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Fernandes of Milford) congratulating Colin Joseph Chabot on earning the Eagle Scout Award; and

Colin Joseph
Chabot.

Resolutions (filed by Mr. Frost of Auburn and other members of the House) commending the Massachusetts letter carriers on their eighteenth anniversary of dedicated service to the food banks, food pantries and shelter of the Commonwealth of Massachusetts;

Letter carriers.

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Scibak of South Hadley, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Engrossed Bills.

The engrossed Bill designating the library at the Corrigan Mental Health Center in the city of Fall River as the Ralph A. Roberts Library (see House, No. 4364) (which originated in the House), in respect to which the Senate had concurred in the adoption

Bill
enacted.

UNCORRECTED PROOF

of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill designating a portion of Route 2 as the Dennis Rindone Roadway (see House, No. 1889) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill enacted.

Quorum.

Mr. Peterson thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 148 members were recorded as being in attendance.

Quorum
roll call,—
yea and nay
No. 361.

[See Yea and Nay No. 361 in Supplement.]

Therefore a quorum was present.

Orders of the Day.

The House Bill authorizing Edward Grace to take civil service examinations notwithstanding maximum age requirements (House, No. 2551) (its title having been changed by the committee on Bill in the Third Reading), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Edward Grace.

The House Bill making appropriations for the fiscal year 2011 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4600, amended) was considered, the main question being on ordering the bill to a third reading.

General
Appropriation
Bill.

The further amendments (offered at the previous session by Mr. Kaufman of Lexington) to the amendments offered by Mr. Jones and other members of the House then also was considered.

On the question on adoption of the further amendments, the sense of the House was taken by yeas and nays at the request of Ms. Polito of Shrewsbury; and on the roll call 88 members voted in the affirmative and 67 in the negative.

Further
amendments
adopted,—
yea and nay
No. 362.

[See Yea and Nay No. 362 in Supplement.]

Therefore the further amendments were adopted.

The amendments, as amended, then also were adopted. Mr. Pedone of Worcester moved that this vote be reconsidered; and the motion to reconsider was negatived.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 28A (inserted by amendment) the following section:

“SECTION 28B. Sections 53, 56, 57, and 59 of chapter 27 of the acts of 2009 are hereby repealed.”; and

By inserting after section 49A (inserted by amendment) the following section:

“SECTION 49B. Section 28B shall be effective July 1, 2011.”.

Pending the question on adoption of the amendments, Mr. Kaufman of Lexington

moved to amend them by adding at the end of the proposed sections 28B and 49B, in each instance, the following paragraph:

“Notwithstanding any special or general law to the contrary, the provisions of this section shall not take effect until such time as the department of revenue and Massachusetts state lottery commissions has furnished a study of its impact on the state’s economy and revenue cost to the commonwealth and its cities and towns, including, but not limited to, a distributional analysis showing the impact on taxpayers of varying income levels, the current practice of other states, any anticipated change in employment and ancillary economic activity to the joint committee on revenue and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.”.

Mr. Peterson thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 148 members were recorded as being in attendance.

[See Yea and Nay No. 363 in Supplement.]

Therefore a quorum was present.

After debate on the question on adoption of the further amendments, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 97 members voted in the affirmative and 57 in the negative.

[See Yea and Nay No. 364 in Supplement.]

Therefore the further amendments were adopted.

The amendments, as amended, then also were adopted. Mr. Murphy of Burlington moved that this vote be reconsidered; and the motion to reconsider was negatived.

Representatives Barrows of Foxborough and Poirier of North Attleborough then moved to amend the bill by adding the following section:

“SECTION 52. Section 6 of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking subsection (i) and inserting in place thereof the following subsection:-

Any owner of residential property located in the commonwealth who is not a dependent of another taxpayer and who occupies said property as his principal residence, shall be allowed a credit equal to 40 per cent of the expenditures for design and construction expenses for the repair or replacement of a cesspool or septic system pursuant to the provisions of Title V as promulgated by the department of environmental protection in 1995. Said expenditures shall be the actual cost to the taxpayer or \$10,000, whichever is less; provided, however, that said credit shall be available to eligible taxpayers beginning in the tax year in which the repair or replacement of said cesspool or septic system was completed; and provided, further, that said credit shall not exceed \$1,000 in any tax year and any excess credit may be applied over the following four subsequent tax years up to an aggregate maximum of \$4,000. The amount of any such credit shall be reduced by an amount equal to the total interest subsidy or grant received from the commonwealth, whether directly or indirectly, toward the cost of said expenditures. The department shall promulgate such rules and regulations as are necessary to administer the credit afforded by this subsection, including, but not limited to, a notification system by the commonwealth to recipients of said interest subsidy or grant of the amount of the total subsidy provided by the commonwealth.”.

After debate the amendment was rejected.

Mr. Kujawski of Webster then moved to amend the bill by adding the following

Quorum.

Quorum
roll call,—
yea and nay
No. 363.

Further
amendments
adopted,—
yea and nay
No. 364.

section:

“SECTION 52. Notwithstanding any general or special law to the contrary, an endowment fund shall be an institutional fund of a private institution of higher learning not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.

Any private institution of higher learning that has an endowment fund in excess of \$1,000,000,000 shall be subject to an annual excise of 2 ½ percent of all monies in excess of \$1,000,000,000.”.

Pending the question on adoption of the amendment, Mr. Torrisi of North Andover moved to amend it by adding the following paragraph:

“Notwithstanding any special or general law to the contrary, the provisions of this section shall not take effect until such time as the executive office for administration and finance and the department of revenue has furnished a study of its impact on the state’s economy and revenue cost to the commonwealth, including, but not limited to, a distributional analysis showing the impact on taxpayers of varying income levels, the current practice of other states, any anticipated change in employment and ancillary economic activity to the house and senate committees on ways and means and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.”.

After debate the further amendment was adopted.

The amendment, as amended, then also was adopted.

Mr. Mariano of Quincy being in the Chair,— Mr. Patrick of Falmouth then moved to amend the bill by adding the following section:

“SECTION 53. Section 4 of Chapter 62 of the General Laws as appearing in the 2008 Official edition is hereby amended by striking subsection (a) (2) and inserting in place thereof the following subsection (a) (2) Part A taxable income consisting of interest and dividends shall be taxed at the rate of 12% provided that for any taxpayer who is 65 years of age or older and is not a dependent of another taxpayer the first \$5000 of interest and dividends shall be exempt.”.

After remarks on the question on adoption of the amendment, Mr. Pedone of Worcester asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 151 members were recorded as being in attendance.

[See Yea and Nay No. 365 in Supplement.]

Therefore a quorum was present.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Patrick of Falmouth; and on the roll call 9 members voted in the affirmative and 147 in the negative.

[See Yea and Nay No. 366 in Supplement.]

Therefore the amendment was rejected.

Mr. Webster of Pembroke then moved to amend the bill by inserting after section 20 the following section:

“SECTION 20A. Section 6 of chapter 64H of the General Laws is hereby amended by inserting after subsection (xx) the following:-

(yy) Allowances afforded to a purchaser in a bundled cellular telephone transaction, so-called. For the purposes of this subsection, allowances exempt from taxation shall be the difference between the amount the dealer charges for a particular telephone in a bundled transaction and the price the dealer would charge for that same

Quorum.

Quorum
roll call,—
yea and nay
No. 365.

Amendment
rejected,—
yea and nay
No. 366.

telephone in an unbundled transaction.”.

After remarks the amendment was rejected.

Mr. Murphy of Burlington and other members of the House then moved to amend the bill by inserting after section 20 the following section:

“SECTION 20A. Section 23 of chapter 64H of the General Laws is hereby repealed.”; and

By inserting after section 21 the following section:

“SECTION 21A. Paragraph (4) of subsection (A) of section 3 of chapter 90C of the General Laws, as amended by section 73 of chapter 27 of the acts of 2009, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:- A violator may contest responsibility for the infraction by making a signed request for a noncriminal hearing on the back of the citation and mailing such citation, together with a \$25 fee, to the registrar at the address indicated on the citation within 20 days of the citation. Such fees shall be transferred by the registrar to the state treasurer for deposit in the General Fund.”.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 139 members voted in the affirmative and 18 in the negative.

[See Ye and Nay No. 367 in Supplement.]

Therefore the amendments were adopted.

The bill (House, No. 4600, amended) then was ordered to a third reading.

At twenty-one minutes before seven o'clock P.M. (Tuesday, April 27), on motion of Mr. Hill of Ipswich (Mr. Mariano of Quincy being in the Chair), the House recessed until half past seven o'clock; and at that time the House was called to order with Mr. Donato of Medford in the Chair.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (Mr. Petrolati of Ludlow being in the Chair) 143 members were recorded as being in attendance.

[See Ye and Nay No. 368 in Supplement.]

Therefore a quorum was present.

Under suspension of the rules, on motion of Mr. Murphy of Burlington, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

Pending the question on passing the bill, as amended, to be engrossed, Ms. Wolf of Cambridge and other members of the House moved to amend it in section 2, in item 9110-1660, by adding the words “; provided, that funds may be expended for Naturally Occurring Retirement Communities”. The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 47 (as printed) the following section:

“SECTION 47A. There shall be a special commission to be referred to as the MassHealth Cost Control Commission to investigate the use of co-payments for MassHealth members with the goal of encouraging the most cost effective use of health care resource. The investigation shall include, but not be limited to, the study of savings that would result from charging a small co-payment for the use of emergency care in non-emergency situations, in order to discourage the inappropriate use of health care resources. Inappropriate use of health care resources may be defined as an instance

Amendments
adopted,—
yea and nay
No. 367.

Recess.

Quorum.

Quorum
roll call,—
yea and nay
No. 368.

in which an individual seeks care in an emergency room department but whose medical needs do not warrant in-patient medical care.

The commission shall investigate possible cost-savings for the MassHealth program and any positive and negative deterrent effects a co-payment will have on MassHealth members, in encouraging members to use primary care rather than emergency care in non-emergency situations.

The MassHealth Cost Control Commission shall consist of 9 members. 1 member who shall be a representative of a major hospital within the commonwealth, appointed by the Governor; 1 member who shall be an advocate for MassHealth members, appointed by the director of Medicaid; 1 member who shall be an expert in national health care policy, appointed by the Governor; 1 member who shall be a representative of MassHealth, appointed by the director of Medicaid; 1 member who shall be a taxpayer's advocate, appointed by the Governor; 1 member of the senate, appointed by the senate president; 1 member, appointed by the senate minority leader; 1 member of the house of representatives, appointed by the speaker of the house; and 1 member, appointed by the house minority leader.

The Commission shall submit its report and findings, along with any draft of legislation, to the house and senate committees on ways and means, the joint committee on health care financing, and the clerks of the house of representatives and the senate within 90 days of the passage of this act.”.

The amendment was adopted.

The Chair (Mr. Petrolati of Ludlow) then placed before the House the question on suspension of Rule 1A in order that the House might continue to meet to meet beyond the hour of nine o'clock P.M.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provisions of said rule; and on the roll 128 members voted in the affirmative and 28 in the negative.

[See Yea and Nay No. 369 in Supplement.]

Therefore Rule 1A was suspended.

Mr. Jones of North Reading and other members of the House then moved to amend the bill [A] by inserting after section 21A (inserted by amendment) the following section:

“SECTION 21B. Chapter 118E of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following new section:-

Section 63. The executive office of health and human services shall discontinue membership in the MassHealth fee-for-service program and primary care clinician plan, and shall begin enrolling all members meeting eligibility requirements as established pursuant to applicable federal and state law and regulation, and for whom the discontinuation would result in cost savings for the MassHealth program, into a Medicaid managed care organization that has contracted with the commonwealth to deliver such managed care services, in accordance with the enrollment and assignment processes for other eligible categories and at the appropriate levels of premium. The office shall submit a report to the joint committee on health care financing and the clerks of the house and the senate by June 30, 2011 detailing which members it has newly enrolled in a Medicaid managed care organization, which members it has maintained in the MassHealth fee-for-service program and primary care clinician plan, and an actuarial justification for those members who have not been transferred to a Medicaid managed care organization.”.

Pending the question on adoption of the amendment, Ms. L'Italien of Andover moved to amend it by striking out the text of said amendment [at “A”] and inserting in

Suspension of
Rule 1A.

Rule 1A
suspended,—
yea and nay
No. 369.

place thereof the following:— in section 2, in item 4000-0300, by adding the following “; provided further, that a managed care advisory committee shall be convened to study the impact of restructuring the commonwealth’s Medicaid program by moving to a program of all-managed care, provided further that the advisory committee shall consist of the secretary of administration and finance who shall serve as chair, the secretary of health and human services, the commissioner of the division of health care finance and policy, the director of Medicaid, the executive director of the Commonwealth Health Insurance Connector Authority, the chair of the House Committee on Ways and Means, the chair of the Senate Committee on Ways and Means, the chairs of the joint committee on health care financing, one member representing the House minority party, one member representing the Senate minority party, one member representing the Massachusetts Association of Health Plans, one member of the Massachusetts Medical Society who shall be a practicing primary care physician, one member representing the Massachusetts Hospital Association; provided further that the advisory committee shall compare the MCO program and Primary care clinical plan, and determine the overall financial impact that moving to a program of all managed-care will have on the Medicaid budget, including, but not limited to, an estimation of the potential increase or decrease in programmatic costs, the potential for improvements in the quality and continuity of care provided to MassHealth members, the potential for improvements to access to disease management and care coordination programs, the impact on MassHealth special populations, the potential impact on access to behavioral health services, the advantages and disadvantages of providing the full range of services across the continuum of care in an integrated setting, the ability to assure accountability through the reporting of data on quality metrics, and the potential for addressing racial and ethnic disparities; provided further that in conducting this analysis the organization shall use actual and existing Medicaid and managed care data; provided further that the executive office of health and human services shall make any data requested available in a timely manner; provided further that for the purpose of conducting this analysis the executive office of administration and finance, in consultation with the managed care advisory committee and subject to appropriation, shall contract with an independent, outside organization with expertise in fiscal analysis of the Medicaid program and the managed care model within state Medicaid programs by August 2, 2010; provided further that the advisory committee shall file a report of its findings with the clerks of the senate and house of representatives, the house and senate committees on ways and means, and the joint committee on health care financing no later than November 15, 2010”.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays at the request of Mr. Jones of North Reading; and on the roll call 125 members voted in the affirmative and 31 in the negative.

[See Yea and Nay No. 370 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Cabral of New Bedford then moved to amend the bill in section 30, in the second paragraph, at the end of the first sentence, by striking out the following “; provided, however, that only those persons that are enrolled in the health insurance plan established pursuant to section 31 of chapter 65 of the acts of 2009 shall be eligible to enroll in the plan authorized by this section”.

The amendment was adopted.

Mr. Donato of Medford of Medford being in the Chair,— Mr. Murphy of Burlington and other members of the House moved to amend the bill in section 2, in

Further
amendment
adopted,—
yea and nay
No. 370.

item 1410-0010, by inserting after the words “Glory 54th Brigade” the following: “; provided further, the secretary of veterans’ affairs shall submit a report to the joint committee on veterans and federal affairs and the house and senate committees on ways and means not later than December 1, 2010 on the effectiveness and efficiency of creating a program of behavioral health career development for returning veterans under a federal yellow ribbon scholarship entitled ‘train vets to treat vets’ in conjunction with the Massachusetts School of Professional Psychology”,

By striking out item 1410-0012 and inserting in place thereof the following item:

“1410-0012 For services to veterans, including the maintenance and operation of outreach centers; provided further, that the department shall not reduce the amount allocated to a program or its successor in section 2 of chapter 27 of the acts of 2009; provided, however, that funds shall not be expended for the Middleboro Veterans” Outreach Center; provided further, that an amount equal to the amount of funds expended in fiscal year 2010 for the Middleboro Veterans” Outreach Center shall be transferred to the Nathan Hale Foundation of Plymouth; provided further, that the centers shall provide counseling to incarcerated veterans and to Vietnam era veterans and their families who may have been exposed to agent orange; and provided further, that these centers shall provide services to veterans who were discharged after September 11, 2001, and their families \$1,738,686”,

By striking out item 1410-0250 and inserting in place thereof the following item:

“1410-0250 For veterans” homelessness services; provided, that the department shall not reduce the amount allocated to a program or its successor in section 2 of chapter 27 of the acts of 2009; and provided further the Western Massachusetts Bilingual Veterans Outreach Center shall be the successor to the Springfield Bilingual Veterans Outreach Center at the YMCA \$2,083,073”,

By inserting after item 4000-0050 the following item:

“4000-0265 For a primary care workforce development and loan forgiveness grant program at community health centers, for the purpose of enhancing recruitment and retention of primary care physicians and other clinicians at community health centers throughout the commonwealth; provided, that the grant shall be administered by the Massachusetts League of Community Health Centers in consultation with the secretary of the executive office of health and human services and relevant member agencies; provided further, that the funds shall be matched by other public and private funds; and provided further, that the League shall work with the secretary and the agencies to maximize all sources of public and private funds \$500,000”,

By striking out item 4000-0300 and inserting in place thereof the following item:

“4000-0300 For the operation of the executive office, including the operation of the managed care oversight board; provided, that the executive office shall provide technical and administrative assistance to agencies under the purview of the secretariat receiving federal funds; provided further, that the executive office and its agencies, when contracting for services on the islands of Martha’s Vineyard and Nantucket, shall take into consideration the increased costs associated with the provision of goods, services and housing on said islands; provided further, that the executive office shall monitor the expenditures and completion timetables for systems development projects and enhancements undertaken by all agencies under the purview of the secretariat, and shall ensure that all measures are taken to make such systems compatible with one another for enhanced interagency interaction; provided further, that the executive office shall continue to develop and implement the common client identifier; provided further, that the executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be

performed within existing resources; provided further, that funds appropriated in this item shall be expended for administrative and contracted services related to the implementation and operation of programs authorized by chapter 118E of the General Laws; provided further, that in consultation with the division of health care finance and policy, no rate increase shall be provided to existing Medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act to ensure that rates of payment to providers do not exceed the rates that are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that funds may be expended for the operation of the office of health equity within the executive office of health and human services; provided further, that subject to appropriation, the executive office of health and human services may employ such additional staff or consultants as it may deem necessary; provided further, that the office may prepare an annual health disparities report card with regional disparities data, evaluate effectiveness of interventions and replicate successful programs across the commonwealth; provided further, that the office shall work with a disparities reduction program with a focus on supporting efforts by community-based health agencies and community health workers to eliminate racial and ethnic health disparities, including efforts addressing social factors integral to such disparities; provided further, that expenditures for the purposes of each item appropriated for programs authorized by chapter 118E of the General Laws shall be accounted for in the Massachusetts management accounting and reporting system not more than 10 days after the expenditures have been made by the Medicaid management information system; provided further, that no expenditures shall be made that are not federally reimbursable, including those related to Titles XIX or XXI of the Social Security Act or the MassHealth demonstration waiver approved under section 1115(a) of said Social Security Act or the community first section 1115 demonstration waiver, whether made by the executive office or another commonwealth entity, except as specifically authorized herein, or unless made for cost containment efforts, the purposes and amounts of which have been submitted to the executive office of administration and finance and the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the executive office of health and human services shall conduct a comprehensive study of trends in all human service programs in the MetroWest Region which shall consist of Ashland, Framingham, Holliston, Hopkinton, Natick, Southborough, Sudbury, Wayland and Westborough, and shall examine all services provided by the commonwealth to evaluate which populations have the greatest need for services, to what degree those populations are served by the programs created as well as by other existing services, and shall develop strategies for serving all underserved segments of the population; provided further, that the study shall also include program density throughout the commonwealth and the fiscal impact of these programs on cities and towns; provided further, that the executive office of health and human services working with the department of public safety shall review program evaluations, certifications and program standards and make recommendations on needed program changes, and the executive office and department shall issue a report to the general court of its study by filing same with the clerks of the house of representatives and senate not later than January 31, 2012; provided further, that the executive office may continue to recover provider overpayments made in the current and prior fiscal years through the Medicaid management information system, and that these recoveries shall be considered current fiscal year expenditure refunds; provided further, that the executive office may collect directly from a liable third party

any amounts paid to contracted providers under said chapter 118E for which the executive office later discovers another third party is liable if no other course of recoupment is possible; provided further, that no funds shall be expended for the purpose of funding interpretive services directly or indirectly related to a settlement or resolution agreement with the office of civil rights or any other office, group or entity; provided further, that interpretive services currently provided shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services; provided further, that notwithstanding any general or special law to the contrary, the executive office shall require the commissioner of mental health to approve any prior authorization or other restriction on medication used to treat mental illness in accordance with written policies, procedures and regulations of the department of mental health; provided further, the secretary of health and human services shall require the director of MassHealth to apply for any grants or demonstration projects relating to Medicaid beginning in fiscal year 2011 pursuant to the Patient Protection and Affordability Act of 2011, P. L. 111-38; provided further, that not later than September 1, 2010, the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing planned fiscal year 2011 expenditures by the executive office as funded by chargebacks to the 17 executive office cluster agencies; provided further, that any projection of deficiency in item 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0895, 4000-0950, 4000-0990, 4000-1400 or 4000-1405 shall be reported to the house and senate committees on ways and means not less than 90 days before the projected exhaustion of funding; and provided further, that any unexpended balance in these accounts shall revert to the General Fund on June 30, 2011..... \$89,511,737”

By striking out item 4000-0600 and inserting in place thereof the following item:

“4000-0600 For health care services provided to MassHealth members who are seniors, and for the operation of the senior care options program under section 9D of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years; provided further, that funds shall be expended for the “community choices” initiative; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that benefits for this demonstration project shall not be reduced below the services provided in fiscal year 2010; provided further, that the eligibility requirements for this demonstration project shall not be more restrictive than those established in fiscal year 2010; provided further, that the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing the projected costs and the number of individuals served by the ‘community choices’ initiative in fiscal year 2011 delineated by the federal poverty level; provided further that for fiscal year 2011, the division of health care finance and policy shall establish nursing facility MassHealth rates that fully recognize the Medicaid share of the nursing home assessment established by section 25 of chapter 118G of the General Laws, as amended by section 39; provided further, that not more than \$35,000,000 shall be expended for the purpose of funding inflationary labor benefits and other costs; provided that not less than \$2,800,000 of the nursing home assessment imposed by section 25 of chapter 118G of the General Laws shall be expended as fiscal year 2011 incentive payments to Nursing Facilities meeting the criteria determined by the MassHealth Nursing Facility Pay for Performance (P4P) Program in 114.2 CMR 6.07 and that have established and participated in a cooperative effort in each qualifying

Nursing Facility between representatives of employees, including, but not limited to, labor organizations, and management, that is focused on implementing said criteria and improving the quality of services available to MassHealth members; and provided further that the MassHealth Agency shall adopt regulations and procedures necessary to carry out this section; provided further, that notwithstanding any general or special law to the contrary, funds shall be expended from this item for the purpose of maintaining a personal needs allowance of \$72.80 per month for individuals residing in nursing homes and rest homes who are eligible for MassHealth, Emergency Aid to the Elderly Disabled and Children program or Supplemental Security Income; provided further, care management under section 3 of chapter 211 of the acts of 2006 shall be implemented through aging and disability resource consortiums, which shall include a combination of 1 or more Aging Services Access Points and Independent Living Centers; provided further, that not less than \$2,500,000 shall be expended from this item to implement the provisions of section 2 of chapter 211 of the acts of 2006, the pre-admission counseling and assessment program, which shall be implemented on a statewide basis through aging and disability resource consortia; provided further, that notwithstanding any general or special law to the contrary, for any nursing home or non-acute chronic disease hospital that provides kosher food to its residents, the department, in consultation with the division, in recognition of the unique special innovative program status granted by the executive office, shall continue to make the standard payment rates established in fiscal year 2006 to reflect the high dietary costs incurred in providing kosher food; provided further, that funds shall be expended for the purpose of a housing with services demonstration project known as the 'Caring Homes' initiative designed to delay or prevent nursing home placement by providing care-giving services to an elder; and provided further, that under said demonstration project, eligible MassHealth enrollees shall be able to live in the home of an individual or relative, with the exception of dependent children, to provide for their long term supports, pursuant to regulations promulgated by said executive office..... \$2,491,416,244",

In item 4100-0060 by striking out the figures "\$17,032,228" and inserting in place thereof the figures "\$19,032,228",

In item 9110-1455, in lines 25 to 29, inclusive, by striking out the following ";; provided further, that the department shall reduced its spending from this line item by the total amount received by it beneficiaries who were granted a one-time rebate pursuant to section 3315 of the Patient Protection and Affordability Act of 2010, P.L. 111-38; provided further, that the department shall reduce its spending by an amount equal to the reduction in costs for brand-name prescription drugs received by its beneficiaries pursuant to section 1860D-14A (a) and (b) of the Patient Protection and Affordability Act of 2010, P.L. 111-38", and

In item 9110-9002, in line 6, by inserting after the word "secretary" the following ";; provided further, that funding shall be expended for provider training and outreach for LGBT elders and caregivers"; and

By adding the following two sections:

"SECTION 53. Notwithstanding any general or special law to the contrary, the office of Medicaid is hereby directed to develop and fund a global payment system for high-risk pediatric asthma patients enrolled in the MassHealth program, designed to prevent unnecessary hospital admissions and emergency room utilization. Consistent with the National Asthma Education and Prevention Program guidelines developed by the National Institutes of Health, the global payments shall be designed to reimburse non-billable expenses necessary to manage pediatric asthma including patient

education, environmental assessments, mitigation of asthma triggers and purchase of necessary durable medical equipment. The global payments shall be designed to offer a financial return on investment in terms of reduced hospital and emergency room costs not later than 2 years after the effective date of this act. The global payment approach shall be piloted in communities with high rates of uncontrolled childhood asthma. The executive office of health and human services shall consult with the Community Asthma Initiative at Children's Hospital Boston and with other relevant providers in developing the global payments, and shall collaborate with participating entities in evaluating the program. The executive office will report its findings on the cost effectiveness of this program to the joint committee on health care financing, the joint committee on public health and the house and senate committees on ways and means not later than December 31, 2012.

SECTION 54. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall make all reasonable efforts to renegotiate the commonwealth's 1115 waiver to permit passive opt-out enrollment for the senior care options plan as expeditiously as possible."

After debate the amendments were adopted.

Recess.

At four minutes before ten o'clock P.M. (Tuesday, April 27), on motion of Mr. Jones of North Reading (Mr. Donato of Medford being in the Chair), the House recessed until the following day at ten o'clock A.M.; and at that time the House was called to order with Mr. Donato in the Chair.

Recess.